

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PAIGE BARNARD,	:	
	:	Civil Action
Plaintiff	:	
	:	M.D. PA Case #:
v.	:	
	:	
LIBERTY MUTUAL INSURANCE	:	
CORPORATION, and THE FIRST	:	
LIBERTY INSURANCE	:	
CORPORATION	:	
	:	
Defendants	:	

**NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Defendants Liberty Mutual Insurance Company, incorrectly designated in the caption as Liberty Mutual Insurance Corporation, and The First Liberty Insurance Corporation (collectively "Liberty Mutual") by their attorneys, Brigid Q. Alford, Esquire and Marshall Dennehey Warner Coleman & Goggin, hereby files Notice of Removal of this case, from the Court of Common Pleas of Lackawanna County, Pennsylvania, where it is now pending at No. 2018-02847, to the United States District Court for the Middle District of Pennsylvania, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and in support thereof state the following:

1. On May 23, 2018, Plaintiff Paige Barnard ("Barnard") commenced a civil action against Liberty Mutual, by Complaint filed in the Court of Common Pleas of Lackawanna County, Pennsylvania, docketed at Civil Action No. 2018-

02847. A true and correct copy of the Complaint is attached hereto, made part hereof, and identified as Exhibit A.

2. Liberty Mutual was served with the Complaint on May 29, 2018. A true and correct copy of the Affidavit of Service, filed by Barnard, is attached hereto, made part hereof, and identified as Exhibit B.

3. This Notice of Removal is timely, in accordance with 28 U.S.C. § 1446(b)(1).

4. In the Complaint, Barnard avers that she is a resident of the Commonwealth of Pennsylvania. *Complt.*, para. 1.

5. Liberty Mutual Insurance Company, incorrectly designated in the caption as Liberty Mutual Insurance Corporation, is a foreign corporation with a principal place of business at 175 Berkeley Street, Boston, MA 02116.

6. The First Liberty Insurance Corporation is a foreign corporation with a principal place of business at 175 Berkley Street, Boston, MA 02116.

7. Barnard alleges, *inter alia.*, that, following a motor vehicle accident that occurred on December 21, 2015, she presented a claim for first party medical benefits under an automobile policy issued by Liberty Mutual, and that Liberty Mutual wrongfully denied all or part of the claim.

8. The Complaint purports to set out three individually enumerated causes of action:

- a. Count I - Breach of contract;
- b. Count II - Bad Faith under 42 Pa. C.S. § 8371;
- c. Count III - Wantfully and wrongfully using a records review to deny first party medical benefits, 75 Pa. C.S.A. § 1797.

9. In Count I - Breach of contract, Barnard demands judgment against each Defendant in an amount in excess of \$50,000.00, plus 12% interest on such benefits, plus all reasonable counsel fees and expenses, plus other consequential damages.

10. In Count II - Bad Faith under 42 Pa. C.S. §8371, Barnard demands judgment against each Defendant in an amount in excess of \$50,000.00, plus additional interest at a rate of 3% above the prime interest rate, plus punitive damages in an amount in excess of \$30,000.00, plus reasonable counsel fees and court costs.

11. In Count III - Wantfully and wrongfully using a records review to deny first paty medical benefits, 75 Pa.C.S.A. §1797, Barnard demands judgment against each Defendant in an amount in excess of \$50,000.00, plus additional interest at a rate of 3% above the prime interest rate, plus punitive damages in an amount in excess of \$30,000.00, plus reasonable counsel fees and court costs.

12. Barnard has, therefore, alleged a total amount in controversy, exclusive of interest and costs, in excess of the jurisdictional threshold of \$75,000.

13. This Honorable Court has jurisdiction, pursuant to 28 U.S.C. § 1332, based upon the diversity of citizenship of the parties and the amount in controversy, and removal is appropriate pursuant to 28 U.S.C. §1441.

14. The Notice of Removal has been filed within thirty (30) days after service of the Complaint on Liberty Mutual.

15. Contemporaneously with the filing of this Notice and in accordance with 28 U.S.C. § 1446(d), written notice of the filing has been given to Barnard, per the attached Certificate of Service.

16. Promptly after filing with this Court and the assignment of a civil action number, a copy of this Notice of Removal will be filed with the Court of Common Pleas of Lackawanna County, Pennsylvania, also in accordance with 28 U.S.C. § 1446(d).

WHEREFORE, Defendants request that this action be removed from the Court of Common Pleas of Lackawanna County, Pennsylvania to the United States District Court for the Middle District of Pennsylvania.

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

Date: 06/15/2018

s/ Brigid Q. Alford

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CERTIFICATE OF SERVICE

I, Brigid Q. Alford, Esquire, do hereby certify that a true and correct copy of the foregoing was served upon the following via U.S. Mail and Electronic Mail on the date specified below:

Melissa A. Scartelli, Esquire
411 Jefferson Avenue
Scranton, PA 18510
Attorney for Plaintiff

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

Date: 06/15/2018

s/ Brigid Q. Alford _____
Brigid Q. Alford, Esquire
Attorneys for Defendants